



# United States Department of the Interior

BUREAU OF RECLAMATION  
Upper Colorado Region  
Provo Area Office  
302 East 1860 South  
Provo, UT 84606-7317

IN REPLY REFER TO:

PRO-626

2.2.4.21

MAR 14 2019

VIA ELECTRONIC MAIL ONLY

Kent L. Jones, P.E.  
State Engineer  
Division of Water Rights  
1594 West North Temple, Suite 220  
Salt Lake City, UT 84116-3154

Subject: Application to Appropriate Number 41-3747 (A81080)

Dear Mr. Jones:

Water Right No. 41-3747 was filed by Water Horse Resources LLC to appropriate 76 cubic feet per second up to 55,000 acre-feet of water from the Green River for uses in Colorado outside the Colorado River drainage. An administrative hearing was conducted by your office on November 7, 2018. Correspondence dated December 10, 2018, was sent to the applicant requesting that specific additional information be provided and allowing 60 days from the date of the correspondence for the applicant to respond. The documents submitted in response to this request were received by your office on February 8, 2019. This information was distributed to the protesting parties on February 14, 2019 and 30 days from that date allowed for responses by the protesting parties.

In response to the applicant's submission, Flaming Gorge Reservoir is part of the Colorado River Storage Project and deliveries of water from it are managed as such. This is exemplified in the notice to the State of Operations in the 24-Month Study and the Colorado River Reservoirs Annual Operating Plans. Water released from Flaming Gorge Reservoir are waters stored by and under the control of the United States for delivery to Lake Powell and other uses. It is the position of the Bureau of Reclamation that water to support this application, regardless of where the diversion of water from the Green River occurs, must be supported by a contract for the water from Flaming Gorge Reservoir. A contract for the water does not currently exist and has not been applied for by the applicant. Prior to a contract being considered for the applicant, Reclamation will require approved applications to divert and use the water from both Utah and Colorado.

Additionally, Appendix A of the applicant's submission contains documents prepared by Reclamation in 2007 which should not be relied upon to determine an amount of water now available for this project. The data used to determine availability of water on the Green River must be updated before any commitment to enter a contract to supply water for this project will be made. It is conceivable that current conditions will not support any new contracts for water.

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Reclamation maintains the concerns previously expressed in its written protest of this application and those expressed at the administrative hearing conducted by the Division. Additionally, we express support for the concerns expressed by the Bureau of Land Management and the U.S. Fish and Wildlife Service. It appears that the applicant does not have any authority or permits to construct facilities for this project on public land administered by the BLM. Prior to constructing facilities or using any water from Flaming Gorge Reservoir, the applicant will have to comply with the National Environmental Protection Act of 1969 which will probably require an Environmental Impact Statement be completed.

Reclamation encourages the State Engineer to reject this application. If you have any questions, please feel free to contact Mr. John Mann at (801) 379-1096. For Text Telephone Relay Services, call the Federal Relay System Text Telephone (TTY) number at (800) 877-8339.

Sincerely,



ACTING FOR

Wayne G. Pullan  
Area Manager

3/14/2019

State of Utah Mail - Application to Appropriate Number 41-3747



waterrights DNR <waterrights@utah.gov>

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## Application to Appropriate Number 41-3747

1 message

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**George, Abby** <ageorge@usbr.gov>

Thu, Mar 14, 2019 at 9:21 AM

To: waterrights@utah.gov

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-Abby George

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2019-03-14 Application to appropriate 41-3747.pdf  
2132K

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